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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 CHARLES L. STRINGER,

11 Plaintiff,

Case No. 2:10-CV-00048-KJD-PAL

12 v.

**ORDER**

13 ROBERT WOOLSEY, *et al.*,

14 Defendants.

15  
16 Presently before the Court is Plaintiff's Motion for Temporary Restraining Order and/or  
17 Preliminary Injunction (#2). Plaintiff seeks to enjoin the proceedings in his criminal case arising in  
18 municipal court in Boulder City, Nevada.

19 The Younger abstention doctrine forbids federal courts from enjoining pending state criminal  
20 proceedings, absent extraordinary circumstances that create a threat of irreparable injury. See  
21 Younger v. Harris, 401 U.S. 37, 53-54 (1971); Kenneally v. Lungren, 967 F.2d 329, 331 (9th Cir.  
22 1992), cert. denied, 506 U.S. 1054 (1993). “Younger generally directs a federal court to abstain  
23 from granting injunctive or declaratory relief that would interfere with pending state judicial  
24 proceedings.” Martinez v. Newport Beach City, 125 F.3d 777, 781 (9th Cir. 1997). “When a case  
25 falls within the proscription of Younger, a district court must dismiss the federal action.” World  
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1 Famous Drinking Emporium, Inc. v. City of Tempe, 820 F.2d 1079, 1081 (9th Cir. 1987); see  
 2 Kenneally, 967 F.2d at 331.

3 Under the Younger abstention doctrine, barring exceptional circumstances, federal courts  
 4 may not stay or enjoin pending state criminal court proceedings. Carden v. Montana, 626 F.2d 82,  
 5 83 (9th Cir. 1980). If Younger abstention applies, a court may not retain jurisdiction, but should  
 6 dismiss the action. Judice v. Vail, 430 U.S. 327, 348 (1977). Courts have “long recognized that in  
 7 some circumstances considerations of comity and concerns for the orderly administration of criminal  
 8 justice require a federal court to forego the exercise of its habeas corpus power.” Francis v.  
 9 Henderson, 425 U.S. 536, 539 (1976). Younger abstention promotes both the interests of comity and  
 10 judicial economy. A party may be acquitted at trial, or on appeal, thereby mooted the federal issue  
 11 in the petition. Sherwood v. Thompson, 716 F.2d 632, 634 (9th Cir. 1983).

12 Younger abstention is appropriate when: (1) the state proceedings are ongoing; (2) the  
 13 proceedings implicate important state interests; and (3) the state proceedings provide an adequate  
 14 opportunity to raise federal questions. Middlesex County Ethics Commission v. Garden State Bar  
 15 Association, 457 U.S. 423, 432 (1982); Kenneally, 967 F.2d at 331; Dubinka v. Judges of the  
 16 Superior Court, 23 F.3d 218, 223 (9th Cir. 1994).

17 Under the first prong of the Younger test, the pendency of the state proceedings is determined  
 18 at the time the federal complaint is filed. Mission Oaks Mobil Home Park v. City of Hollister, 989  
 19 F.2d 359, 360-61 (9th Cir. 1993), cert. denied, 510 U.S. 1110 (1994); Beltran v. California, 871 F.2d  
 20 777, 782 (9th Cir. 1988). State proceedings are ongoing if appellate remedies have not been  
 21 exhausted. Huffman v. Pursue Ltd., 420 U.S. 592 (1975).

22 As to the second factor, state proceedings may implicate important state interests when they  
 23 are necessary for the vindication of important state policies. Middlesex County Ethics Commission,  
 24 457 U.S. at 432; see World Famous Drinking Emporium, 820 F.2d at 1082-83 (civil proceeding  
 25 implicated state's interest in enforcing municipal ordinances regulating public nuisances).

1       In considering the third factor, the Supreme Court has noted that “where vital state interests  
2 are involved, a federal court should abstain ‘unless state law clearly bars the interposition of the  
3 constitutional claims.’ ” Middlesex County Ethics Commission, 457 U.S. at 432. To satisfy this  
4 requirement, it is sufficient that constitutional claims may be raised in state court judicial review of  
5 the proceeding. See Ohio Civil Rights Commission v. Dayton Christian Schools, Inc., 477 U.S. 619,  
6 629 (1986).

7       A federal court should assume that state procedures will afford an adequate opportunity for  
8 consideration of constitutional claims “in the absence of unambiguous authority to the contrary.”  
9 Pennzoil Co. v. Texaco, Inc., 481 U.S. 15 (1987). It appears that Nevada law affords Plaintiff an  
10 opportunity to present his constitutional claims.

11       All three of the Younger requirements are satisfied in the present case. Abstention is  
12 therefore required unless an exception to Younger applies. Younger exceptions are few and far  
13 between. “Only in the most unusual circumstances is the defendant entitled to have federal  
14 interposition by way of injunction or habeas corpus until after the jury comes in, judgment has been  
15 appealed from and the case concluded in the state courts. Apparent finality of one issue is not  
16 enough.” Drury v. Cox, 457 F.2d 764, 764-65 (9th Cir. 1972).

17       Federal courts cannot interfere with pending state criminal proceedings, absent extraordinary  
18 circumstances that create a threat of irreparable injury. Younger v. Harris, 401 U.S. 37, 53-54 (1971).  
19 Irreparable injury does not exist if the threat to the plaintiff’s federally protected rights may be  
20 eliminated by his defense of the criminal case. Id. at 46. Moreover, even irreparable injury is  
21 insufficient to permit interference with the proceeding unless it is “both great and immediate.” Id.  
22 “The Younger doctrine was born of the concern that federal court injunctions might unduly hamper a  
23 state in its prosecution of criminal laws.” Miofsky v. Superior Court, 703 F.2d 332, 336 (9th Cir.  
24 1983).

25       Accordingly, IT IS HEREBY ORDERED that Plaintiff’s Motion for Temporary Restraining  
26 Order and/or Preliminary Injunction (#2) is **DENIED**;

1 IT IS FURTHER ORDERED that Plaintiff's Complaint is **DISMISSED**.  
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5 DATED this 29<sup>TH</sup> day of January 2010.  
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20 Kent J. Dawson  
21 United States District Judge